IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.3570 of 2004

M/s.Metlex Ceramics Ltd. & anr. Petitioners
Vs.
SBI Commercial & International
Bank Ltd. & ors. Respondents

Mr.Santosh Shetty h/f. Mr.M.M.Vashi for petitioners.
Mr.K.Kaushik for Resp.no.1.

CORAM: B.H.MARLAPALLE & NARESH H.PATIL,JJ.

September 18, 2006.

P.C.

. Heard the learned counsel for the petitioners.

Appeal No.63 of 2003 was filed before the Debts Recovery Appellate Tribunal at Mumbai against the judgment and order dated 3/1/2003 rendered by the learned Presiding Officer of the Debts Recovery Tribunal - II in O.A. No.51 of 2001. The recovery was to the extent of Rs.1,66,13,320/- with interest at 6 per cent per annum from the date of filing upto six months from the date of the order and thereafter at the rate of 12 per cent per annum. In the said appeal Misc.Application No.120 of 2003 was filed and it was disposed off by the impugned interlocutory order dated 29/1/2004 by the learned Chairperson of the Appellate Tribunal.

. The Appellate Tribunal directed the petitioners to deposit an amount of Rs.2 crores within eight weeks and in case the amount was not deposited accordingly, the appeal would stand rejected automatically. The stay to the recovery proceedings was directed until the next date i.e. 25/3/2004.

. This petition has been filed on 31/3/2004 and during the last more than two and half years, there is no stay to the impugned order and it is not stated whether the petitioner - company has deposited the amount of Rs.2 crores as directed by the Appellate Tribunal. On the face of these obtaining circumstances, Appeal No.63 of 2003 does not survive on the file of the Appellate Tribunal and, therefore, we need not examine the challenge to the interlocutory order passed by the said Tribunal on 29/1/2004 at this stage.

. The petition is rejected summarily.

(NARESH H. PATIL,J.) (B.H.MARLAPALLE,J.)